



Towards a UN Framework Convention on Taxation?

**Briefing for ICC members
20 February 2024**

The wonderful world of framework conventions

The basics

- Relatively novel feature of international cooperation
- Legally binding (requiring ratification of national parliaments)
- But nothing more than an “umbrella document”:
 - General objectives
 - Procedural rules
 - Institutional arrangements
- Concrete obligations and/or targets can be established by way of “protocols” – negotiated separately
- May leave provide a basis for new work programmes, decisions etc.

Developing a framework convention

Historical precedents

- Convention on Biological Weapons
 - 2-year negotiation + 2-year ratification process
 - Major difficulties agreeing protocols
- Framework Convention on Climate Change
 - 15-month negotiation + 22-month ratification process
 - First protocol adopted in just under 3 years
- Framework Convention on Tobacco Control
 - 8-year negotiation + 1 year ratification process
 - Over 7 years to agree first protocol (on illicit trade)

Business experience

What to be aware of...

- Conventions set their own rules of the game:
 - Stakeholder participation
 - Decision making
 - Agenda setting
- Scope of work may quickly expand
- Risk of becoming a platform for campaigning and political agendas
- Convention meetings may attract a high-level of media interest

The UN Resolution A/C.2/78/L.18/Rev.1

Promotion of inclusive and effective international tax cooperation at the United Nation

- It calls for a United Nations framework convention on international tax cooperation to strengthen international tax cooperation and make it fully inclusive and more effective;
- Adopted by the UN General Assembly (UNGA) on Nov. 22, 2023.

The breakdown of the voting is as follows:

In Favor: 125

Against: 48

Abstention: 9

- As a first step the UN Resolution calls for the set up of a **Member State-led, open-ended ad hoc intergovernmental committee**;
- The purpose of this Committee is to draft terms of reference (TOR) for a United Nations framework convention on international tax cooperation;
- According to the resolution the aim is to finalize the TOR by August 2024 to be presented at the next General Assembly.

The Ad-HoC UN Committee

Composition

The bureau of the ad hoc intergovernmental committee shall be made up of not more than 20 members, consisting of a chair, vice-chairs and a rapporteur, elected on the basis of **balanced geographical representation** and taking into account gender balance, with each of the five regional groups equally represented.

African States

- Ghana
- **Egypt**
- Kenya
- Morocco

Asia-Pacific States

- China - Pakistan
- India – Iran
- Rep. of Korea - Japan
- Singapore - UAE

Eastern Europe States

- Poland
- Russia
- Estonia
- Belarus

Latin-American & Caribbean States

- Mexico - Chile
- Peru – Brazil
- **Colombia** – Bolivia
- Bahamas - Jamaica

Western & Other States

- Germany
- Spain
- Italy
- Norway

The Ad-HoC UN Committee

Based on the text of the resolution, the ad hoc intergovernmental committee, in elaborating the draft terms of reference (TOR) for a framework convention, will:

- (a) take into account the needs, priorities and capacities of all countries, in particular developing countries;
- (b) take a holistic, sustainable development perspective that considers interactions with other important economic, social and environmental policy areas;
- (c) Consider the need for sufficient flexibility and resilience in the international tax system to ensure equitable results as technology and business models and the international tax cooperation landscapes evolve;
- (d) Take into consideration the work of other relevant forums, potential synergies and the existing tools, strengths, expertise and complementarities available in the multiple institutions involved in tax cooperation at the international, regional and local levels;
- (e) Consider simultaneously developing early protocols, while elaborating the framework convention, on specific priority issues, such as measures against tax - related illicit financial flows and the taxation of income derived from the provision of cross-border services in an increasingly digitalized and globalized economy;

Timeline to draft the Terms of Reference

Session	Dates	Tasks
Organizational Session	20-22 February 2024 (3 meeting days)	Discuss and agree on the structure of the Committee's work to deliver on its mandate: I. Outlines and modalities for the work of the Committee II. Modalities of multi-stakeholder engagement III. Roadmap for the work of the Committee IV. Provisional Agenda for first session of the Committee V. Invitations to Member States and stakeholders (by the Chair) for written inputs
First Session	26 April to 8 May 2024 (9 meeting days)	Undertake substantive scoping of the draft terms of reference and discuss an indicative list of matters to be addressed in the draft terms of reference, including, among other matters, considering simultaneously developing early protocols, while elaborating the framework convention, on specific priority issues
Second Session	29 July to 16 August 2024 (15 meeting days)	Discuss and agree on the draft terms of reference to be contained in the Committee's report for submission to the General Assembly at its seventh-ninth session

The Organizational Session – 1st Day (Feb. 20th)

1 Opening of session

2 Election of officers

3 Adoption of the agenda

4 **Outline and modalities for the work of the Committee**

- Introduction of proposed outline and modalities for the work of the Ad Hoc Committee (Annex I to the annotated provisional agenda, A/AC.295/2024/1)
- Introduction of proposed modalities for multi-stakeholder engagement in the work of the Ad Hoc Committee (Annex II to the annotated provisional agenda, A/AC.295/2024/1)
- Discussion and adoption (Annex I and Annex II)
- Introduction of proposed provisional agenda of the first session of the Ad Hoc Committee (conference room paper)

The Organizational Session – 1st Day (Feb. 20th)

ANNEX II – MODALITIES FOR MULTISTAKEHOLDERS ENGAGEMENT

(to be approved by the Committee on Thursday Feb. 22nd)

The Ad Hoc Committee is a subsidiary body of the General Assembly, intergovernmental organizations and other entities having received a **standing invitation to participate as observers in the work of the General Assembly may participate in the Committee sessions in that capacity. (ICC has UN Permanent Observer Status, so we will participate as OBSERVERS without any approval needed).**

In addition, the Committee may:

- Invite other relevant intergovernmental organizations to submit an application to the Secretariat for accreditation to participate as observers – subject to final decision by the Committee.
- Invite civil society organizations and other relevant stakeholders (including academic institutions and the private sector) to submit requests to participate as observers in the sessions of the Committee. In this case the Secretariat would bring the list of new application to Member States (2 weeks before each session of the Committee) on a non-objection basis. The Committee, at the beginning of each of its session, shall consider and take decision on new applications.

The Organizational Session – 1st Day (Feb. 20th)

ANNEX II – MODALITIES FOR MULTISTAKEHOLDERS ENGAGEMENT

The participation of **observers** could consist of the following:

- **Attending any open formal sessions** of the Ad Hoc Committee;
- Making **oral statements, at the end of discussions by Member States**, time permitting, on **each substantive agenda item**. Given the limited time available at the meetings, stakeholders may consider selecting from among themselves spokespersons, in a balanced and transparent way, taking into account the equitable geographical representation, gender balance and diversity of the participants.
- **Submitting written materials.** Such submissions should be limited to **2,000 words**. The submissions will be posted, in their original language, on the website of the Ad Hoc Committee.

The Organizational Session – 2nd and 3rd Day

2nd DAY - Feb. 21st

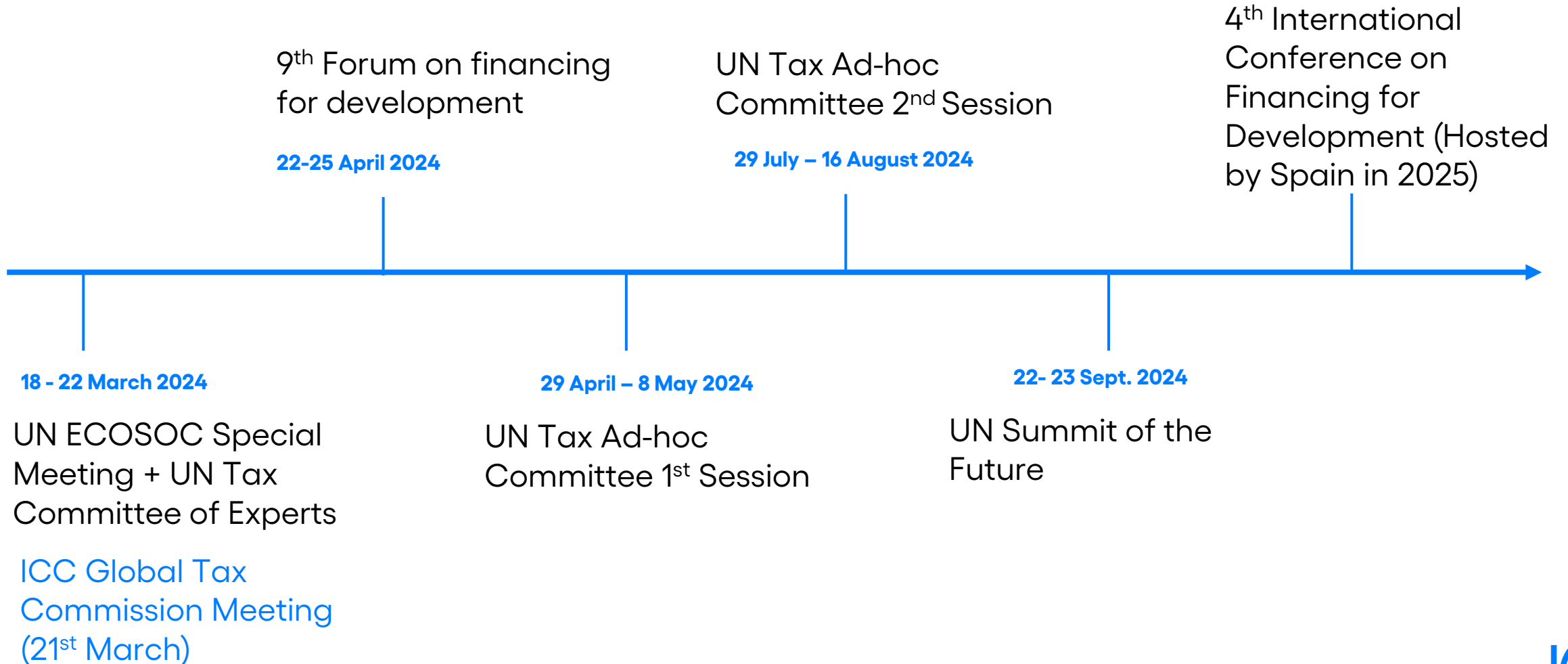
Substantive preparations

- Scene-setting building on Day 1
- General discussion based on a focus question intended to serve as a starting point for the Committee's deliberations and preparations: What are some specific problems that could be addressed by a UN framework convention on international tax cooperation?
- Presentation on procedural elements of a framework convention
- General discussion of structural elements of a framework convention on international tax cooperation

3th DAY - Feb. 22nd Substantive preparations (cont.)

- General discussion of specific priority areas that could be addressed in early protocols
- Outline and modalities for the work of the Committee (cont.)
- Discussion and adoption of provisional agenda for the first session of the Ad Hoc Committee (conference room paper)

Next Steps



Next Steps

- After the organizational meeting that will take place this week, we might have more clarity of the specific topics that countries pushing for a framework convention would like this initiative focus on → Both in relation to the Convention per se and the early protocols
- There might be the possibility to make written submissions after this session as well as oral interventions in future ones.
- Given ICC UN Permanent Observer Status (in accordance with Annex II, paragraph 5) we will be allowed to participate to all Committee meetings without the need of any further request or approval process.
- We will continue to carefully monitor developments in this space and keep ICC members updated on any specific topic of high relevance.
- At the end of these three days of meetings, we will provide ICC members with an overview of what has been discussed and decided on each day.



Q & A

**For any further information or questions,
please feel free to reach out:**

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